



Industry New Zealand Act 2000

Public Act 2000 No 27
Date of assent 6 September 2000
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Industry New Zealand Act 2000.

2 Commencement

This Act comes into force 1 month after the date on which it receives the Royal assent.

Preliminary

3 Purpose

- (1) The purpose of this Act is to promote and encourage sustainable economic development in New Zealand by establishing Industry New Zealand.
- (2) Industry New Zealand is the Crown entity responsible for facilitating (in co-operation with industry, central and local government, and relevant community groups) the development, and implementation, of strategies, programmes, and activities for industry and regional development as directed by the Government.

4 Overview

In this Act,—

- (a) key provisions about INZ are set out in sections 7 to 11:
- (b) provisions relating to the board are set out in sections 12 to 22. Those provisions are supplemented by Schedule 1 (which relates to members' duties) and Schedules 2 and 3 (which relate to membership and procedure of the board):

- (c) a range of matters concerning the employees (including the chief executive) of INZ are set out in sections 23 to 36:
- (d) miscellaneous administrative matters (for example, the execution of documents) and financial provisions are set out in sections 37 to 46:
- (e) related amendments to other Acts are set out in sections 47 to 49.

5 Interpretation

In this Act, unless the context otherwise requires,—

board means the board of INZ

chairperson means the chairperson of the board

chief executive means the chief executive of INZ

committee means a committee appointed under section 20

deputy chairperson means the deputy chairperson of the board

enactment includes this Act

equal employment opportunities programme has the meaning set out in section 27(2)

good employer has the meaning set out in section 26(2)

industry means a business, trade, manufacturing or commercial undertaking, profession, occupation, research, or undertaking relating to the supply or acquisition of goods or services

INZ—

- (a) means Industry New Zealand established by section 7; and
- (b) in sections 8, 9, 42, 43, 47, 48, and in Schedule 1 (which relates to members' duties), includes a subsidiary of INZ

member means a member of the board

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means the Ministry of Economic Development

transferred employee means a person employed in the Ministry of Economic Development immediately before the

commencement of this Act who is transferred to INZ under section 29.

6 Act to bind the Crown

This Act binds the Crown.

Key provisions about INZ

7 Establishment

- (1) This section establishes INZ.
- (2) INZ is a body corporate with perpetual succession.
- (3) INZ is a Crown entity for the purposes of the Public Finance Act 1989.

8 Functions

- (1) The functions of INZ are to—
 - (a) work closely with industry, central and local government, and relevant community groups to develop and implement industry strategies at sectoral and regional levels:
 - (b) provide a conduit for input and advice from industry, local government, and relevant community groups on programmes to implement the Government's policies for industry and regional development:
 - (c) efficiently and effectively manage and administer Government initiatives and policies for industry and regional development:
 - (d) work closely with the Ministry to contribute to the development of strategies, and the details of programmes, that implement the Government's policies for industry and regional development:
 - (e) allocate funds or deliver services within programmes for industry and regional development for which appropriations have been made:
 - (f) facilitate and encourage co-operation and co-ordination among different government departments and Crown entities in the delivery of Government business assistance and other industry and regional development programmes:
 - (g) carry out any other functions and duties in relation to the purpose of this Act as the Minister may prescribe by

notice in writing signed by the Minister and given to INZ.

- (2) A notice under subsection (1)(g) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

9 Powers

For the purposes of carrying out its functions, INZ—

- (a) may carry on or undertake any activity, do any act, or enter into any transaction as if it were a natural person of full age and capacity; and
- (b) for the purposes of paragraph (a), has and may exercise the full rights, powers, and privileges of a natural person of full age and capacity.

10 Compliance with Government policy

- (1) In the performance and exercise of its functions, duties, and powers, INZ must give effect to any policy of the Government that is—
 - (a) communicated to INZ by written direction given and signed by the Minister; and
 - (b) consistent with INZ's functions.
- (2) A Ministerial direction may, at any time, be amended or revoked in the same manner.
- (3) Nothing in this section authorises the Minister to direct INZ to allocate funds to or for the benefit of a particular person.

11 Requirements for notices and Ministerial directions

The Minister must, as soon as practicable after prescribing a notice under section 8(1)(g) or giving a direction under section 10 (as the case may be),—

- (a) publish a copy of it in the *Gazette*; and
- (b) present a copy of it to the House of Representatives.

Key provisions about board

12 Membership of board

- (1) The board must consist of at least 5, but not more than 9, members appointed by the Minister.
- (2) A majority of the members of the board must be drawn from industry.
- (3) Schedules 1 to 3 apply to the board and its members.

13 Board's management duty

The board must manage, or supervise or direct the management of, the affairs of INZ.

14 Board's powers

The board has all the powers necessary for managing, and for supervising and directing the management of, the affairs of INZ.

*Delegation by board***15 Persons to whom board may delegate functions, duties, or powers**

The board may by writing, either generally or specifically, delegate any of its functions, duties, or powers to any of the following:

- (a) any of its members:
- (b) a committee:
- (c) the chief executive:
- (d) any employee of INZ.

16 Certain powers must not be delegated

The board must not delegate any of the following powers:

- (a) the power of delegation conferred by section 15:
- (b) the power to acquire or dispose of real property:
- (c) the power to form and register a subsidiary:
- (d) the power to borrow money:
- (e) the power to appoint a chief executive.

17 Effect of delegation

Subject to the board's direction, a person to whom any powers are delegated under section 15 may exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation.

18 Presumption of acting in accordance with delegation

A person who appears to act under a delegation under section 15 is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

19 Other matters relating to delegation

A delegation under section 15—

- (a) is revocable at will; but the revocation does not take effect until it is communicated to the delegate; and
- (b) continues in force according to its terms until it is revoked, despite any change in the membership of the board; and
- (c) does not prevent the performance or exercise of a function, duty, or power by the board.

*Committees***20 Board may appoint committee**

- (1) The board may, by resolution, appoint a committee to—
 - (a) advise the board on any matters relating to the board's functions, duties, or powers that are referred to the committee by the board;
 - (b) exercise any of the board's functions, duties, or powers that are delegated to the committee under section 15;
 - (c) develop strategies and recommendations that are specific to the needs of—
 - (i) a particular industry sector;
 - (ii) a particular region.
- (2) The board may, by resolution, alter, discharge, continue, or reconstitute a committee appointed under subsection (1).

21 Membership of committee

A committee must consist of at least 2 members and may include any other persons that the board thinks fit.

22 Committee to regulate own procedure

Subject to the board's direction, a committee may regulate its own procedure.

*Chief executive of INZ***23 Appointment of chief executive**

- (1) The board must appoint a chief executive.
- (2) The chief executive must not be a member.
- (3) The chief executive is responsible to the board for the efficient and effective administration of the affairs of INZ.

24 Terms and conditions of chief executive's employment

- (1) The chief executive is to be appointed on terms and conditions determined by the board.
- (2) However, the board must not determine any terms and conditions of employment for the chief executive without—
 - (a) consulting the State Services Commissioner; and
 - (b) considering every recommendation made, within a reasonable time of being consulted, by the State Services Commissioner about those terms and conditions.

25 Delegation of functions, duties, or powers by chief executive

- (1) The chief executive may by writing, either generally or specifically, delegate to an employee of INZ, any functions, duties, or powers delegated to the chief executive by the board as long as the board has given its written consent to the delegation.
- (2) Sections 17 to 19 apply (with any necessary modifications) to a delegation under subsection (1).

*Employees of INZ***26 Personnel policy**

- (1) INZ must operate a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this section, a **good employer** is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
 - (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified persons for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Maori; and
 - (ii) the employment requirements of Maori; and
 - (iii) the need for involvement of Maori as employees of INZ; and
 - (e) opportunities for the enhancement of the abilities of individual employees; and

- (f) recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
- (g) recognition of the employment requirements of women; and
- (h) recognition of the employment requirements of persons with disabilities.

27 Equal employment opportunities programme

- (1) In each year, INZ must—
 - (a) develop and publish an equal employment opportunities programme for itself; and
 - (b) ensure that the programme for that year is complied with.
- (2) For the purposes of this section and section 26, an **equal employment opportunities programme** is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

28 Appointment of employees

- (1) INZ may employ any employees (including employees on secondment from other organisations) it thinks necessary for the efficient performance of its functions.
- (2) Subject to the terms and conditions of employment, INZ may at any time terminate or suspend the employment of any of its employees.

29 Transfer of employees

INZ and the chief executive of the Ministry of Economic Development may, after consulting the employee concerned, agree to the transfer of an employee from the Ministry to INZ.

30 Terms and conditions of employment for transferred employee

- (1) The employment of a transferred employee must be on terms and conditions no less favourable to the transferred employee than those applying to the employee immediately before the date of the person's transfer to INZ.
- (2) Subsection (1)—

- (a) continues to apply to the terms and conditions of employment of a transferred employee until those terms and conditions are varied by agreement between the transferred employee and INZ; but
- (b) does not apply to a transferred employee who receives any subsequent employment with INZ.

31 Continuity of employment

- (1) Every transferred employee becomes an employee of INZ on the date of transfer.
- (2) However, for the purposes of every enactment, law, determination, contract, and agreement relating to the employment of the employee,—
 - (a) the contract of employment of that employee is deemed to have been unbroken; and
 - (b) the employee's period of service with the Ministry, and every other period of service of that employee that is recognised by the Ministry as continuous service, is deemed to have been a period of service with INZ.

32 No compensation for technical redundancy

A transferred employee is not entitled to receive any payment or any other benefit solely on the ground that—

- (a) the position held by the person in the Ministry has ceased to exist; or
- (b) the person has ceased (as a result of the transfer to INZ) to be an employee of the Ministry.

Superannuation

33 Establishment of superannuation schemes

INZ may establish superannuation schemes in accordance with sections 84A to 84D of the State Sector Act 1988.

34 Government Superannuation Fund

- (1) A person who, immediately before becoming an employee of INZ, was a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, to be treated as if he or she were employed in the Government service as long as the person continues to be an employee of INZ.

- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of INZ were Government service.
- (3) A person employed by INZ who ceases to be a contributor to the Government Superannuation Fund is not subsequently entitled to become a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956 in accordance with subsection (2), **controlling authority**, in relation to that employee, means INZ.

35 Employees not in service of the Crown

Except as otherwise provided in section 34, an employee of INZ is to be treated as if he or she is not employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956.

Liability of board members and employees

36 Liability of members and employees

Except as otherwise provided in this Act, no member or employee of INZ is personally liable for any liability of INZ, or for any act done or omitted to be done by the board, any member, or any employee of INZ, in good faith in pursuance or intended pursuance of the functions, duties, or powers of INZ.

Execution of documents

37 Execution of documents

INZ may,—

- (a) in writing, authorise any 1 or more members or employees of INZ to execute any deed, instrument, contract, or other document on its behalf; and
- (b) at any time, in the same manner revoke the authority.

38 Presumption of authority to execute document

Every person who appears to be authorised under section 37 to execute a document on behalf of INZ is, in the absence of evidence to the contrary, presumed to be acting in accordance with that authority.

*Financial provisions***39 Funds of INZ**

The funds of INZ consist of—

- (a) all money appropriated by Parliament and paid to INZ; and
- (b) all other money lawfully received by INZ for its purposes; and
- (c) all accumulations of income derived from that money.

40 Bank accounts

- (1) INZ must open at any registered bank or registered banks (within the meaning of the Reserve Bank of New Zealand Act 1989) any accounts as are necessary for the exercise or performance of its functions, duties, and powers.
- (2) All money received by INZ or by any member or employee of INZ for its purposes must, as soon as practicable after it has been received, be paid into a bank account of INZ as it determines.
- (3) The withdrawal or payment of money from any of its accounts must be authorised in any manner as INZ thinks fit.

41 Investment of money

Any money that belongs to INZ and that is not immediately required may be invested in accordance with section 25 of the Public Finance Act 1989.

42 INZ not to borrow without consent of Minister of Finance

Despite anything in section 9, INZ must not borrow or contract to borrow any money, or renew any loan made to INZ, without the prior written consent of the Minister of Finance.

43 Audit Office to be auditor of INZ

The Audit Office is the auditor of INZ and, for that purpose, the Audit Office has and may exercise all of the functions, powers, and duties that the Audit Office has under the Public Finance Act 1977 in respect of public money and public stores.

44 Annual report

- (1) INZ must, as soon as practicable after the end of each financial year, give to the Minister a report on its operations during that financial year.
- (2) INZ must include in its annual report—
 - (a) financial statements prepared by it, in accordance with Part V of the Public Finance Act 1989, in respect of the financial year to which the report relates; and
 - (b) the audit report and the management statement relating to those financial statements.
- (3) The Minister must present a copy of the report to the House of Representatives under section 44A of the Public Finance Act 1989.

45 INZ deemed to be public authority

- (1) INZ is deemed to be a public authority for the purposes of the Inland Revenue Acts.
- (2) In this section, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

*Application of Archives Act 1957***46 Archives Act 1957 to apply**

INZ is a Government office for the purposes of the Archives Act 1957.

*Related amendments to other Acts***47 Amendment to Ombudsmen Act 1975**

The Ombudsmen Act 1975 is amended by inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:

Industry New Zealand.

48 Amendment to Official Information Act 1982

The Official Information Act 1982 is amended by inserting in the First Schedule, in its appropriate alphabetical order, the following item:

Industry New Zealand.

49 Amendment to Public Finance Act 1989

The Public Finance Act 1989 is amended by inserting in the Fourth, Fifth, Sixth, and Seventh Schedules, in its appropriate alphabetical order, the following item:

Industry New Zealand.

s 12(3)

Schedule 1
Members' duties
Fundamental duties

1 Duty to act in good faith

A member, when exercising powers or performing duties as a member,—

- (a) must act in good faith;
- (b) must ensure that INZ acts within its powers and functions;
- (c) must endeavour to ensure that the activities of INZ are conducted efficiently and effectively and in a financially prudent manner;
- (d) must not act as a representative of, or to promote the views of, any particular interest group, entity, or region.

2 Compliance with enactments

A member must not act, or agree to INZ's acting, in a manner that contravenes any enactment.

3 Duty of care

A member, when exercising powers or performing duties as a member, must exercise the care, diligence, and skill that a reasonable member would exercise in the same circumstances taking into account, but without limitation,—

- (a) the nature of INZ; and
- (b) the nature of the decision; and
- (c) the position of the member and the nature of the responsibilities undertaken by him or her.

Disclosure of interest

4 Obligation to disclose interest

- (1) A member who (otherwise than as a member) has a direct or indirect interest in any of the matters listed in subclause (2), must, as soon as practicable after the member knows about the relevant facts, disclose the nature of the interest in accordance with clause 5.
- (2) The matters are—
 - (a) INZ's performance of a function or exercise of a power:

- (b) an arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by INZ.

5 Disclosure to Minister or chairperson

A member who is required to disclose the nature of an interest must disclose it—

- (a) to the Minister if—
 - (i) the person is the chairperson; or
 - (ii) the positions of chairperson and deputy chairperson are vacant; or
- (b) to the chairperson in any other case.

6 Consequences of disclosure

A member who discloses his or her interest under clause 5—

- (a) must not take part in any deliberation or decision of the board relating to the matter; and
- (b) is to be disregarded for the purpose of forming a quorum for a meeting of the board during which a deliberation or decision relating to the matter occurs or is made.

7 Effect of non-compliance

If a member fails to comply with the disclosure requirements in clause 5, the validity of the arrangement, agreement, or contract, made or entered into by INZ is not affected.

Use of information

8 Restrictions on disclosure or use of INZ's information

- (1) A member must not disclose to any person, or make use of, or act on, any information that is available to the member only in that capacity.
- (2) Subclause (1) does not apply if the member—
 - (a) is required or authorised by this Act to disclose, use, or act on, the information; or
 - (b) discloses, uses, or acts on, the information for the purposes of INZ or the requirements of the law.

9 When member may rely on certain information and advice

- (1) A member, when exercising powers or performing duties as a member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the persons listed in subclause (2).
- (2) The persons are—
- (a) an employee of INZ or a member of the public service whom the member believes on reasonable grounds is reliable and competent in relation to the matters concerned; or
 - (b) a professional adviser or expert in relation to matters that the member believes on reasonable grounds are within the person's professional or expert competence; or
 - (c) any other member or committee on which the member did not serve in relation to matters within the member's or committee's designated authority.

10 When clause 9 applies

Clause 9 applies to a member only if the member—

- (a) acts in good faith; and
 - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
 - (c) has no knowledge that the reliance is unwarranted.
-

Schedule 2

Membership of board

s 12(3)

Members' appointments

1 Restrictions on appointments

The Minister must only appoint a person as a member who, in the Minister's opinion, has the expertise as will enable INZ to achieve its purpose.

2 Method of appointment

Every member is appointed by notice published in the *Gazette*.

3 When appointment takes effect

Every member takes office from the date stated in the notice of appointment.

4 Position where concurrent office

A person appointed as a member may hold that office concurrently with any other office.

Term of office

5 Term of office

- (1) Except as otherwise provided in this Act, a member—
- (a) holds office for a term not exceeding 3 years; and
 - (b) may be reappointed; and
 - (c) continues in office (unless the member dies, resigns, or is removed from office) until—
 - (i) the member is reappointed; or
 - (ii) the member's successor is appointed; or
 - (iii) the member is informed in writing by the Minister that the member is not to be reappointed and that the member's successor is not to be appointed.
- (2) A member's term of office referred to in subclause (1)(a) must be stated in the notice of appointment.

*Resignation and removal of members***6 Resignation**

A member of the board may at any time resign from office by written notice given to the Minister.

7 Removal from office

A member may at any time be removed from office by written notice from the Minister.

*Vacancies in board's membership***8 Position where vacancy in membership**

- (1) If a member, for any reason, ceases to hold office as a member, the Minister may appoint another person to act as a member.
- (2) A member who is appointed under subclause (1) is appointed for the residue of the term for which the vacating member was appointed.

9 Effect of vacancy in membership

The functions, duties, and powers of INZ and of the board are not affected by any vacancy in the board's membership.

*Chairperson and deputy chairperson***10 Appointment**

- (1) The Minister may appoint 1 of the members as the chairperson and another member as the deputy chairperson.
- (2) However, no person may, at the same time, hold the office both of chairperson and deputy chairperson.

11 Term of office

Every person appointed as chairperson or deputy chairperson holds that office until the person—

- (a) dies or resigns from that office; or
- (b) is removed from it by the Minister; or
- (c) ceases to be a member.

12 Resignation

A chairperson or deputy chairperson may, without resigning as a member, resign from that office by written notice given to the Minister.

13 Appointment of new chairperson or deputy chairperson

If the chairperson or deputy chairperson ceases to be the chairperson or deputy chairperson, the Minister may appoint an existing member or a new member as the chairperson or deputy chairperson.

14 Exercise of chairperson's functions, duties, and powers during vacancy

- (1) During a vacancy in the office of chairperson, or while the chairperson is for any reason unable to perform the functions, duties, and powers of the chairperson, the deputy chairperson has and may exercise all of the functions, duties, and powers of the chairperson.
- (2) No acts done by the deputy chairperson acting as the chairperson may, in any proceedings, be questioned on the grounds that the occasion for the deputy chairperson so acting had not arisen or had ceased.

*Remuneration***15 Remuneration**

The members are to be paid, out of the funds of INZ, such remuneration by way of fees, allowances, or expenses as is determined by the Minister.

s 12(3)

Schedule 3

Procedure of board

General

1 Procedure generally

Except as otherwise provided in this Act, the board may regulate its own procedure.

Meetings

2 Times and places of meetings

- (1) The board or the chairperson must appoint the times and places for meetings of the board.
- (2) The chairperson, or any 2 members, may at any time call a special meeting of the board by giving not less than 7 days' notice of the special meeting, and of the business to be transacted at the meeting, to each member of the board for the time being in New Zealand.
- (3) No business other than that specified in a notice of special meeting may be transacted at that meeting.

3 Quorum

- (1) A quorum for a meeting of the board is—
 - (a) half the number of members (if the board has an even number of members); or
 - (b) a majority of the members (if the board has an odd number of members).
- (2) However, a quorum for a meeting of the board is not less than 3 members.
- (3) No business may be transacted at a meeting of the board if a quorum is not present.

4 Who presides at meetings?

- (1) At all meetings of the board, the chairperson presides if he or she is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.
- (3) The members present must appoint 1 of their number to be the chairperson for the meeting if—
 - (a) the chairperson or the deputy chairperson is not present;
or

(b) there is no chairperson and no deputy chairperson.

- (4) The elected person has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

5 Voting at meetings

- (1) All questions arising at a meeting of the board must be decided by a majority of the votes cast by the members present.
- (2) The member presiding at the meeting has a deliberative vote and, in the case of an equality of votes, also has a casting vote.

6 Resolutions

- (1) A resolution in writing signed or assented to by letter, telegram, telex, fax message, or electronic message by all members of the board is as valid and effectual as if it had been passed at a meeting of the board duly called and constituted.
- (2) The resolution may consist of several documents in the same form, each signed or appearing to have been sent by 1 or more members.

Legislative history

22 August 2000	Divided from the Economic Development (Industry New Zealand and Ministry of Economic Development) Bill (17-2), (Bill 17-3A)
5 September 2000	Third reading
6 September 2000	Royal assent

This Act is administered in the Ministry of Economic Development.
